

IV. REMARKS

Paragraph [00011] of the specification has been amended. No new subject matter has been added. Claim 1 has been amended. Claims 1 - 6 remain pending in the instant application.

The drawings were objected to under 37 C.F.R. 1.83(a) for failing to show every feature specified in the claims. In response, paragraph [00011] of the specification has been amended. No new subject matter has been added. In response, claim 1 has also been amended. Applicant respectfully directs the Examiner to paragraphs 11 and 12 and Figures 1-5 which clearly show and describe the substantially continuous wall portion 14 forming the skirt, extending substantially continuously in a direction of the length of the footing, the substantially continuous wall portion extending outwardly from said upper panel section away from said wall and downwardly substantially continuously along the length of the skirt and terminating in a wall edge in contact with the supporting footing section as claimed in amended claim 1. Applicant respectfully requests the objection under 37 C.F.R. 1.83(a) be withdrawn.

Claim 1 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite. In response, paragraph [00011] of the specification has been amended to overcome the rejection. No new subject matter has been added. In response, claim 1 has also been amended to overcome the rejection. Accordingly, claim 1 is patentable under 35 U.S.C. 112, second paragraph.

Claims 1 - 6 were rejected under 35 U.S.C. 103(a) as being anticipated over Janesky (U.S. Patent 6,672,016).

Claim 1 recites a drain panel assembly adapted to control water leaking through a basement wall and/or entering a basement through the interface of a basement wall and a supporting footing. The assembly is claimed having a plastic drain panel having an upper panel section which extends vertically up from a lower skirt section, adjacent the basement wall and closely-spaced therefrom by a means of spacer-means integral with a rear surface of the upper panel section to admit water running down the basement wall into the lower skirt section. The lower skirt section is claimed having a substantially continuous wall portion extending substantially continuously in a direction of the length of the footing, the substantially continuous wall portion extending outwardly from said upper panel section away from said wall and downwardly substantially continuously along the length of the skirt and terminating in a wall edge in contact with the supporting footing section, so that an outer surface of the skirt section generally faces away from the upper panel section, to form a longitudinal water conduit extending along the length of the footing and open to the wall/footing interface to receive water therefrom. The water conduit is claimed being provided with a plurality of spaced drain openings for draining water therefrom outwardly over the adjacent footing surface into a drain tile.

Janesky (U.S. Patent 6,672,016) discloses a sub floor drain panel 10 having an upper wall engaging section 13 and lower footing engaging section 14 separated by a longitudinal flat transition area 15. The vertical panel section 13 and horizontal panel section 14 carry a plurality of uniformly spaced linearly positioned wells 16, 17.

Thus Janesky (U.S. Patent 6,672,016) discloses something different than a lower skirt section having a substantially continuous wall portion extending substantially continuously in a direction of the

length of the footing, the substantially continuous wall portion extending outwardly from said upper panel section away from said wall and downwardly substantially continuously along the length of the skirt and terminating in a wall edge which is in contact with the supporting footing section, to form a longitudinal water conduit extending along the length of the footing as claimed in claim 1. Rather, Janesky (U.S. Patent 6,672,016) discloses transition area 15 and horizontal panel section 14 carry a plurality of uniformly spaced linearly positioned wells 17 that is different than having a wall portion extending outwardly and downwardly substantially continuously along the length of the skirt and terminating in a wall edge in contact with the supporting footing section as claimed in claim 1. The plurality of uniformly spaced linearly positioned wells 17 disclosed by Janesky (U.S. Patent 6,672,016) are different than the wall edge (of the water conduit) in contact with the supporting footing section as called for in of claim 1, and are different from a substantially continuous wall portion extending substantially continuously in a direction of the length of the footing and extending outwardly and downwardly substantially continuously along the length of the skirt as claimed in claim 1. For the reasons set forth, the features of claim 1 are neither disclosed or suggested by Janesky (U.S. Patent 6,672,016). Accordingly, claim 1 is patentable over Janesky (U.S. Patent 6,672,016).

Claims 2 - 6 depend upon claim 1. For the reasons set forth above relating to claim 1, the features of claims 2 - 6 are neither disclosed or suggested by Janesky (U.S. Patent 6,672,016). Accordingly, claims 2 - 6 are patentable under 35 U.S.C. 102(b) over Janesky (U.S. Patent 6,672,016).

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel

and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any other fees associated with this communication or credit any over payment to Deposit Account No. 16-1350

Respectfully submitted,



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9/3/08

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